IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPLICATION NO.2275 OF 2004
IN
CRIMINAL APPEAL NO.692 OF 2004

Abaso Yashwant Daigade & Ors ...Applicants.

v/s

State of Maharashtra ...Respondent.

Mr. V.V. Purwant for the applicants.

Mr. S.R. Saste, APP for the respondent - State.

CORAM: V.M.KANADE,J.
DATE: 14th September, 2004.

PC:.

1. Heard the learned Counsel appearing on behalf of the applicants and the learned APP for the respondent-State.

2. Applicants are convicted under section 397 of the Indian Penal Code read section 342 of the I.P.C. and sentenced to suffer R.I. for 7 years. The evidence against the applicants is in the form of two eye witnesses and recovery of copper wire which was stolen by the applicants. It is an admitted position that no test identification parade was held and the accused were not known to the witnesses. The recovery which is made at the instance of the accused is almost after a considerable lapse of time i.e. four years. The

copper wire which is recovered also does not have any special identifying marks.

3. The learned APP appearing on behalf of the State has vehemently opposed the said application for the bail. He has submitted that so far as accused Nos. 4, 5 and 7 are concerned, there are previous antecedents. He submitted that there are two eye witnesses who have deposed that the applicants have committed the said offence. Apart from that recovery has been made at the instance of accused Nos. 1, 8 and 10.

4. In my view, considering the fact that the test identification parade was not held and that the recovery of the copper wire has been made after a lapse of four years coupled with the fact that no identifying mark was found on the copper wire, applicants are entitled to be released on bail.

5. Applicants were on bail during trial. Applicants are, therefore, directed to be released on bail on the same terms and conditions as imposed by the Trial Court. They shall, however, furnish fresh bonds and report to the Karad City Police Station once in a week, pending the hearing and final disposal of the

Criminal Appeal.

6. Registry to issue authenticated copy of this order to the parties.

V.M. KANADE, J.